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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/585,736	07/12/2006	Kazuhiko Kishi	040894-7468	7925
9629 7590 06/30/2008 MORGAN LEWIS & BOCKIUS LLP 1111 PENNSYLVANIA AVENUE NW WASHINGTON, DC 20004				
EXAMINER				
LOW, LINDSAY M				
ART UNIT		PAPER NUMBER		
3721				
MAIL DATE		DELIVERY MODE		
06/30/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/585,736

Applicant(s)

KISHI ET AL.

Examiner

LINDSAY M. LOW

Art Unit

3721

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 July 2006.
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1-4 is/are rejected.
7) ☒ Claim(s) 1 is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
10) ☒ The drawing(s) filed on 12 July 2006 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☒ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☒ Notice of Draftsperson's Patent Drawing Review (PTO-946)
3) ☒ Information Disclosure Statement(s) (PTO-893)
4) ☐ Interview Summary (PTO-413)
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____
Paper No(s)/Mail Date 7/12/06

DETAILED ACTION

Priority

1. Acknowledgment is made of applicant's claim for foreign priority under 35 U.S.C. 119(a)-(d). The certified copy has been filed in parent Application No. PCT/JP05/00245, filed on January 12th, 2005.

Information Disclosure Statement

2. The Information Disclosure Statement (IDS) submitted on July 12th, 2006 is acknowledged. The IDS meets the requirements of 37 CFR 1.97 and 1.98. Therefore, the references therein have been considered.

Drawings

3. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "driving mechanism" of claim 1 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

4. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet,

and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

5. The abstract of the disclosure is objected to because it is in claim form.

Correction is required. See MPEP § 608.01(b).

6. The disclosure is objected to because of the following informalities: the specification is replete with terms which are not clear, concise and exact, and grammatical errors. The specification should be revised carefully in order to comply with 35 U.S.C. 112, first paragraph. Examples of some unclear, inexact or verbose terms and grammatical errors in the specification include, but are not limited to: on page 1 line 8, the term "a" should be inserted between "to" and "stapler." On page 2 line 8, it is unclear what is meant by the phrase "most portions." On page 2 line 22, the term "provides" should be replaced with "provided." On page 15 line 14, the term "slided" should be replaced with "slid." Appropriate correction is required.

7. The disclosure is objected to because of the following informalities: on page 23 line 6, "movable clinchers" is referred to with the reference number 12 when it should be 11. Appropriate correction is required.

Claim Objections

8. Claim 1 is objected to because of the following informalities: the last term in claim 1 should be "staple" instead of "stapler." Appropriate correction is required.

Claim Rejections - 35 USC § 102

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

10. Claims 1-4 are rejected under 35 U.S.C. 102(b) as being anticipated by McVeigh (4,378,085).

McVeigh discloses the same invention including a rotatable movable clincher 45, 46 having a clincher piece (see Fig. 4), a rotatable clincher and cutter cam 55 having a cam surface 60, a drive link 56, and a drive mechanism (Fig. 1). Note that clincher and cutter cam 55 is capable of being rotatable when the entire device is rotated. The cam surface 60 has an arc-shaped part (best seen in Fig. 4) having the same radius from the center. A fixed cutter 72, 73 is interposed between the staple legs. A movable cutter

70, 71 moves with respect to the fixed cutter from the outside of the staple legs toward the inside of the staple legs. Note that the clincher and cutter cam is an integral body.

11. Claims 1-4 are rejected under 35 U.S.C. 102(b) as being anticipated by Kikkawa et al (4,087,034).

Kikkawa discloses the same invention including a rotatable movable clincher 38, 38' having a clincher piece (see Fig. 12), a rotatable clincher and cutter cam 60, 60' having a cam surface, a drive link 65, 62, 62', and a drive mechanism (Fig. 16). The cam surface 60 has an arc-shaped part (best seen in Fig. 16) having the same radius from the center. A fixed cutter 39, 39' is interposed between the staple legs. A movable cutter 38a, 38'a moves with respect to the fixed cutter from the outside of the staple legs toward the inside of the staple legs. Note that the clincher and cutter cam is an integral body.

Conclusion

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Tsai, Shimizu, Hazel, Taguchi, Kurosawa, Manabe, Yagi, Crowley, Mochizuki, and Elonsson et al are cited to show similar inventions.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to LINDSAY M. LOW whose telephone number is (571)272-1196. The examiner can normally be reached on Monday thru Friday 7:30 to 5:00.

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14. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi Rada can be reached on 571-272-4467. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

15. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/L. M. L./
Examiner, Art Unit 3721

/Rinaldi I Rada/
Supervisory Patent Examiner, Art Unit 3721
6/23/2008